

1 Jennifer L. Keller (84412)  
jkeller@kelleranderle.com  
2 Chase Scolnick (227631)  
cscolnick@kelleranderle.com  
3 Gregory M. Sergi (257415)  
gsergi@kelleranderle.com  
4 Craig A. Harbaugh (194309)  
charbaugh@kelleranderle.com  
5 **KELLER/ANDERLE LLP**  
6 18300 Von Karman Ave., Suite 930  
Irvine, CA 92612  
Telephone (949) 476-0900

7 Saul Perloff (157092)  
saul.perloff@aoshearman.com  
8 Katharyn Grant (*pro hac vice*)  
kathy.grant@aoshearman.com  
9 Andre Hanson (*pro hac vice*)  
andre.hanson@aoshearman.com  
10 Olin “Trey” Hebert (*pro hac vice*)  
trey.hebert@aoshearman.com  
11

11 [www.alenoverry.com](http://www.alenoverry.com)  
12 **ALLEN OVERY SHEARMAN STERLING**  
13 **US LLP**  
300 W. Sixth Street, 22<sup>nd</sup> Floor  
Austin, Texas 78701  
Telephone (512) 647-1900

14 Christopher LaVigne (*pro hac vice*)  
15 christopher.lavigne@aoshearman.com

15 ALLEN OVERY SHEARMAN STERLING  
16 US LLP

16 599 Lexington Ave  
17 New York, NY 10022  
Telephone (212) 848-4000

18 Attorneys for Plaintiff/Counterclaim-Defendant  
19 GUARDANT HEALTH, INC.

22 GUARDANT HEALTH, INC.,

Case No. 3:21-cv-04062-EMC

23 Plaintiff/Counterclaim-  
24 Defendant,

**PLAINTIFF GUARDANT HEALTH,  
INC.'S AMENDED WITNESS LIST**

25 ||| VS.

26 || NATERA, INC.,

## Defendant/Counterclaim- Plaintiff

## **Second Final Pretrial Conference:**

Date: November 4, 2024

Time: 8:30 a.m.

Place: Courtroom 5

Name	Substance of Testimony	Estimated Length of Testimony (Guardant direct or cross-examination)
Helmy Eltoukhy	Guardant will offer Dr. Eltoukhy to testify regarding, among other things, general background about Guardant Health as a company, the Guardant Reveal assay, and the relevant market; Natera's false advertising and its impact on Reveal's reputation and success; the corrective advertising Guardant would need to ameliorate the harm Natera has caused; and other topics discussed in Dr. Eltoukhy's deposition, including any topics on which he was designated as a 30(b)(6) witness.	1.0 hour
Justin Odegaard	Guardant will offer Dr. Odegaard to testify regarding, among other things, general background about MRD tests for colorectal cancer including the Guardant Reveal assay; technical details about Reveal, including laboratory procedures and bioinformatics pipeline; Guardant's efforts to obtain Medicare reimbursement for Reveal; Natera's false advertising and its impact on Reveal's reputation and success; and other topics discussed in Dr. Odegaard's deposition, including any topics on which he was designated as a 30(b)(6) witness.	0.75 hour
Kristin Price	Guardant will offer Ms. Price to testify regarding, among other things, Reveal's clinical performance; Guardant's marketing of Reveal and interactions with clinicians; and the false and misleading nature of Natera's advertising; and other topics discussed in Ms. Price's deposition, including any topics on which she was designated as a 30(b)(6) witness.	1.0 hour
Victoria Raymond	Guardant will offer Ms. Raymond to testify regarding, among other things, Guardant's role in the development, design, conduct and authorship of the Parikh Study; and other topics discussed in Ms. Raymond's deposition, including any topics on which she was designated as a 30(b)(6) witness.	0.75 hour

Name	Substance of Testimony	Estimated Length of Testimony (Guardant direct or cross-examination)
Ryan Corcoran (by Deposition)	Dr. Corcoran will testify regarding, among other things, general background about colorectal cancer and MRD tests; the development, design, conduct and authorship of the Parikh Study; and Natera's efforts to undermine or obtain retraction of the Parikh Study.	0.75 hour
Aparna Parikh (to be called morning of Nov. 18, 2024)	Dr. Parikh will testify regarding, among other things, the development, design, conduct and authorship of the Parikh Study, including the methodology and data analysis; and Natera's efforts to undermine or obtain retraction of the Parikh Study.	1 hour
Steve Chapman	Guardant will examine Mr. Chapman regarding, among other things, all aspects of Natera's campaign to attack Reveal, including Natera's false advertising and attempts to persuade MolDX to deny coverage for Reveal; Natera's comparison of Reveal and Signatera; his statements about Signatera; Signatera's performance in published studies; and other topics discussed in Mr. Chapman's deposition, including any topics on which he was designated as a 30(b)(6) witness.	1.5 hours
Kevin Masukawa	Guardant will examine Dr. Masukawa regarding, among other things, Natera's campaign to attack Reveal, including Natera's false advertising, and its marketing strategy and expenditures for Signatera and its false advertising campaign against Reveal; and the topics discussed in Mr. Masukawa's deposition, including any topics on which he was designated as a 30(b)(6) witness.	1.5 hours

Name	Substance of Testimony	Estimated Length of Testimony (Guardant direct or cross-examination)
Daniel F. Heitjan	<p>Guardant will offer Dr. Heitjan to testify regarding the opinions set forth in his expert reports dated August 22, 2022 and September 13, 2022, including: Natera's assertions that Signatera performs better than Reveal with respect to pre-surgical sensitivity, diagnostic lead time, assay failure rate, negative predictive value, hazard ratio, and longitudinal sensitivity are false and misleading because they fail to acknowledge critical differences in study design and analysis, including differences between the Reinert Study and Parikh Study; the Parikh Study's procedures and analyses are correctly described as prospective; no evidence shows the Parikh Study was not appropriately blinded or that any lack of blinding affected the Parikh Study results. The bases for Dr. Heitjan's testimony is set forth at length in his reports.</p>	0.75 hours
James Malackowski	<p>Guardant will offer its expert Mr. Malackowski to testify regarding the opinions set forth in his expert reports dated August 22, 2022, September 13, 2022, as corrected, February 14, 2024, and June 14, 2024, including: the appropriate form and amount of compensation due to Guardant for Natera's false advertising, including measures of disgorgement of Natera's profits, Guardant's lost profits, and the costs of corrective advertising; and the appropriate calculation of Guardant's gross profits, Natera's advertising expenses, and Guardant's advertising expenses. The bases for Mr. Malackowski's testimony is set forth at length in his reports, which are attached.</p>	1 hour

Name	Substance of Testimony	Estimated Length of Testimony (Guardant direct or cross-examination)
Brian Sowers	Guardant will offer its expert Mr. Sowers to testify regarding the opinions set forth in his expert report dated August 22, 2022, including: the design, methodology, and results of a survey testing whether relevant consumers take away a belief from Natera's advertising that Signatera's performance is superior to Reveal in terms of pre-surgical sensitivity and relapse sensitivity during surveillance monitoring. The bases for Mr. Sowers' testimony are set forth at length in his report, which are attached.	0.5 hours
Claus Lindberg Andersen (by deposition)	Dr. Andersen will testify regarding the Reinert and Henriksen studies involving Signatera and other topics discussed at his deposition.	1 hour

13 These estimates may change based on the identification of additional witnesses to be called by  
 14 Defendant, the estimated duration of Defendant's cross-examinations and/or rebuttal examinations,  
 15 and any change in the total trial time available. Plaintiff reserves the right to add or subtract  
 16 witnesses based on developments in the case, to adjust its estimates and to call any witnesses  
 17 identified by Defendant on its witness list. Plaintiff also reserves the right to call any witness for  
 18 purposes of rebuttal, impeachment, or authentication of a document.

19 In addition, Plaintiff may call the following witnesses, depending on developments in the case,  
 20 including the testimony of other witnesses. Because Plaintiff does not presently intend to call these  
 21 witnesses, Plaintiff is not providing an estimate regarding the length of their testimony.

Name	Substance of Testimony
AmirAli Talasaz	If called, Guardant will offer Dr. Talasaz to testify regarding, among other things, general background about Guardant Health as a company, the Guardant Reveal assay, and the relevant market; Natera's false advertising and its impact on Reveal's reputation and success; and the corrective advertising Guardant would need to ameliorate the harm Natera has caused.
Thereasa Rich	If called, Ms. Rich may testify regarding, among other things, Guardant's role in the conduct of the Parikh Study; and the false and misleading nature of Natera's advertising.

Name	Substance of Testimony
Nitin Sood (By Deposition)	If called, Mr. Sood may testify regarding, among other things, the development and commercial launch of Reveal.
Shruti Sharma	If called, Guardant will seek to cross-examine Dr. Sharma to testify regarding, among other things, Natera's role in the development, design, and conduct of the Reinert Study and Henriksen studies; and Natera's collaboration with Aarhus University.
Kimberly Banks	If called, Ms. Banks may testify regarding, among other things, Reveal's clinical performance; Guardant's role in the conduct of the Parikh Study; and the topics discussed in Ms. Banks' deposition, including any topics on which she was designated as a 30(b)(6) witness.
Mark McCoy	If called, Mr. McCoy will testify regarding, among other things, Guardant's efforts to obtain Medicare approval for Reveal.
Alexey Aleshin	Guardant will examine Dr. Aleshin regarding, among other things, Natera's campaign to attack Reveal, including Natera's false advertising to oncologists; Natera's efforts to undermine or obtain retraction of the Parikh Study; Natera's participation and performance in bakeoffs with Guardant; Natera's role in the development, design, and conduct of the Reinert Study; Natera's interest in developing its own plasma only assays; and the topics discussed in Mr. Aleshin's deposition, including any topics on which he was designated as a 30(b)(6) witness.
Solomon Moshkevich	Guardant will examine Mr. Moshkevich regarding, among other things, Natera's campaign to attack Guardant and Reveal, including Natera's false advertising; Signatera's clinical performance; and the topics discussed in Mr. Moshkevich's deposition, including any topics on which he was designated as a 30(b)(6) witness.

1 Dated: November 1, 2024

**KELLER/ANDERLE LLP**

2  
3 By: /s/ Chase Scolnick  
Chase Scolnick

4 Attorneys for Plaintiff/Counter-Defendant  
5 GUARDANT HEALTH, INC.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

In accordance with Local Rule 5-5, I certify, that on November 1, 2024, this document, filed with the Court through the CM/ECF system, will be sent electronically to the registered participants at their e-mail addresses as identified in the Notice of Electronic Filing (NEF). Non-CM/ECF participants will be served via First-Class Mail.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 1st day of November.

/s/ Chase A. Scolnick  
Chase A. Scolnick